

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

PRESIDENT AND FELLOWS OF
HARVARD COLLEGE; and
MASSACHUSETTS INSTITUTE OF
TECHNOLOGY,

Plaintiffs,

v.

UNITED STATES DEPARTMENT OF
HOMELAND SECURITY; U.S.
IMMIGRATION AND CUSTOMS
ENFORCEMENT; CHAD F. WOLD,
in his official capacity as Acting
Secretary of the United States
Department of Homeland Security;
and MATTHEW ALBENCE, in his
official capacity as Acting Director of
U.S. Immigration and Customs
Enforcement,

Defendants.

Civil Action No. 1:20-cv-11283-ADB

**UNIVERSITY OF PITTSBURGH'S MOTION FOR LEAVE OF COURT TO FILE
AMICUS CURIAE BRIEF IN SUPPORT OF PLAINTIFFS' COMPLAINT FOR
DECLARATORY AND INJUNCTIVE RELIEF**

The University of Pittsburgh respectfully moves this Court for leave to file an *amicus curiae* brief in support of Plaintiffs' motion for a temporary restraining order. Plaintiff's motion seeks a temporary order enjoining Defendants from enforcing Immigration and Customs Enforcement's (ICE) July 6 directive and from promulgating the July 6 directive as a final rule. Federal district courts have inherent authority and discretion to appoint amici. *NGV Gaming, Ltd.*

v. Upstream Point Molate, LLC, 355 F. Supp. 2d 1061, 1067 (N.D. Cal. 2005) (“District courts frequently welcome amicus briefs from non-parties concerning legal issues that have potential ramifications beyond the parties directly involved. . . .”); *see also Massachusetts Food Ass’n v. Massachusetts Alcoholic Beverages Control Com’n*, 197 F.3d 560, 567 (1st Cir. 1999) (“[A] court is usually delighted to hear additional arguments from able amici that will help the court toward right answers”); *Portland Pipe Line Corp. v. City of S. Portland*, No. 2:15-cv-00054-JAW, 2017 WL 79948, at *6 (D. Me. Jan. 9, 2017) (granting motions for leave to file amicus briefs and giving plaintiff and defendant opportunity to respond “within two weeks of the date of this order”); *Students for Fair Admissions, Inc. v. President & Fellows of Harvard Coll.*, 308 F.R.D. 39, 52 (D. Mass. 2015) (“The role of an *amicus curiae*, meaning friend of the court, is to assist the court in cases of general public interest by making suggestions to the court, by providing supplementary assistance to existing counsel, and by insuring a complete and plenary presentation of difficult issues so that the court may reach a proper decision.”) (citation and internal quotation marks omitted), *aff’d*, 807 F.3d 472 (1st Cir. 2015).

INTEREST OF UNIVERSITY OF PITTSBURGH

The University of Pittsburgh – of the Commonwealth System of Higher Education (the “University” or “Pitt”), founded in 1787, is one of the oldest and most distinguished institutions of higher education in the United States. The main campus of the University is located in Pittsburgh, Pennsylvania, with four regional campuses in Bradford, Greensburg, Johnstown, and Titusville. With over 200 years’ development, the University is composed of 17 undergraduate and graduate schools and colleges. The University currently serves approximately 30,000 students in total, including close to 3,500 international students. The University is consistently ranked

among the top recipients of federal research grants in the nation and it is the only “Research I” state-related institution in Western Pennsylvania.

The University has a long-standing tradition of international engagement that spans more than fifty years and is rooted in Western Pennsylvania’s immigrant past. In 1968, Pitt moved to coalesce its faculty and research assets with the establishment of the University Center for International Studies. This move allowed faculty, staff, and students from all undergraduate colleges, graduate and professional schools, and regional campuses to work together and share international expertise across academic fields. The University’s interest in international engagement is additionally highlighted by its wide-ranging study abroad offerings coordinated by the Study Abroad Office. The University provides support for its international students through the Office of International Services. Additionally, in the center of its Pittsburgh campus, the University’s celebration of international diversity is exhibited in physical form in the University’s thirty “Nationality Rooms,” which collectively highlight the legacy of Pittsburgh’s ethnic diversity while raising money used to support students’ cross-cultural experiences with scholarships to travel to the countries represented by each of heritage rooms.

The University also is home to four international academic associations with worldwide memberships: the Association for Slavic, East European and Eurasian Studies; the Comparative and International Education Society; the Latin American Studies Association; and the European Union Studies Association. These regional and thematic study centers offer grants to bolster Pitt faculty research on international topics, including support for overseas research travel and conference participation.

Overall, Pitt attracts more than 6,000 international students, faculty, staff and visiting scholars from over 100 countries annually, and international students are critical to the Pitt community and to the University's missions and strategic goals.

Pitt is deeply concerned about the potential impact of ICE's June 6 directive, which was done without any apparent consideration to the health and wellness of university communities and in total disregard to the educational opportunities of international students nationwide. This the decision has the effect, and also seems to have the intention, of disrupting international education in the United States.

The proposed *amicus* brief details the detrimental impact of ICE's June 6 directive on the University of Pittsburgh and its international students, describing the onerous requirements of the directive and the ways in which it harms the University community. It outlines the government's violation of the Administrative Procedure Act ("APA") in failing consider the substantial reliance interests of the University and its international students; the University has invested considerable financial and human resources in designing and putting in place a comprehensive operational plan for the upcoming academic, and the international students relied substantially on this plan, expending considerable time and money with the expectation of being on-campus in the fall. The brief further demonstrates the government's violation of the APA by highlighting that the government did not offer *any* reasonable basis in the July 6 directive for its departure from its prior guidance, which was justified by the pandemic, which, by nearly every metric, is worse in the United States today than it was on March 13.

The University of Pittsburgh's proposed brief for *amicus curiae* is attached as Exhibit 1.

Dated: July 13, 2020

Respectfully submitted,

Amicus Curiae
UNIVERSITY OF PITTSBURGH

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LOCAL RULE 7.1(b) CERTIFICATION

I hereby certify that counsel for *amicus curiae* has sought to confer with counsel for the parties in a good faith effort to narrow or resolve the issues in this motion. Plaintiffs consent to *amicus*' request. The government has not responded or taken a position on the motion for leave.

/s/ John J. Cotter
John J. Cotter

CERTIFICATE OF SERVICE

I hereby certify that the above document is being filed through the Electronic Court Filing system on July 13, 2020, and a copy is being sent electronically to the registered recipients and counsel of record as identified on the Notice of Electronic Filing.

/s/ John J. Cotter
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